

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
September 16, 2011

Meeting Began At: 3:33 P.M.

Meeting Ended At: 4:04 P.M.

Members Present: Chris Beutler, Tim Clare

Item 1 - Introductions and Notice of Open Meetings Law Posted by Door

Vice-Chair Clare opened the meeting with introductions of the Board members. He advised that the open meetings law is in effect and is posted in the back of the room.

Item 2 – Public Comment and Time Limit Notification

Clare stated that individuals from the audience will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record and sign in.

Clare took a moment to publicly thank Jayne Snyder for her leadership on the JPA Board. Her leadership is large part of why this project is where it is today. Beutler expressed that he is grateful for the steady leadership Snyder showed. He added that it will be hard to replace Snyder on the Board but intends to move ahead so that the cooperative tone that she set will continue.

Item 3 – Approval of the minutes from the JPA meeting held September 1, 2011

Clare asked for any corrections or changes to the minutes from September 1, 2011. Hearing none, Beutler motioned for approval of the minutes. Clare seconded the motion. Motion carried 2-0.

Item 4 – Election of a Chairperson of the West Haymarket Joint Public Agency to fill the vacancy created by the resignation of Chairperson Jayne Snyder.

Rod Confer informed the Board that the reason a new Chairperson needs to be elected is because the Joint Public Agency Act provides that only the Chairperson can sign checks. Therefore, a Chairperson is needed so that the business of the JPA can continue until a new member is appointed.

Confer asked for nominations for the Chair of the Joint Public Agency. Clare nominated Beutler to serve as Chair. Hearing no other nominations, the vote was taken and Beutler was approved as Chair 2-0.

Item 5 – West Haymarket Progress Report

Paula Yancey came forward to provide a status update on the arena and infrastructure projects. Yancey reported that Judds Brothers continues work on the initial site preparation project. The

surcharge that was placed on the arena site has been removed in preparation for the pile drilling operations that will begin next week. During the initial site prep some old building foundations were uncovered and are in the process of being removed. A portion of the Amtrak canopy was recently taken down to be cleaned. The USPS parking lot reconstruction work is progressing up to the wall at R Street. The remainder of the USPS property is expected to close next week allowing for work to continue on the rest of R Street north. M and N Street work progresses on 10th Street with new signal poles and turn lanes being constructed. Groundbreaking for the arena was held on September 7, 2011 in anticipation of arena construction beginning this week. Parking Garage 1 is in design and the first submittal is expected to be complete in October. The 10th and Salt Creek project is complete and opened in time for the first Husker football game. The environmental team installed seven monitoring wells on site to monitor soils and water. The Amtrak station design is progressing and is currently in the value engineering phase.

Yancey provided some fun facts to put some of the project milestones into perspective. 24,657 feet of pipe has been laid for waste, wastewater, storm sewer and street lights to date. The surcharge settled seven inches on the arena site before it was moved off. 22,310 truckloads of dirt were hauled in and out of the West Haymarket redevelopment area equating to 379,270 cubic yards of dirt or just over 3.4 million wheelbarrow loads. 6,000 linear feet of boring has been drilled for geotechnical analysis which equates 16.66 football fields.

Clare inquired as to when the auger cast pile drilling operations will start. Yancey stated that Mortenson is expecting the delivery of the crane on Tuesday and will begin after that.

Beutler asked for any comments from the public. JoAnn Murphy came forward and asked if there are any places one can go to see the actual blue prints of the arena. Yancey answered that the total document set is about 400 pages, and they are not posted on the website. The contractors, engineers and architects have them in addition to them having been submitted to the City for permitting purposes.

Item 6 – Approval of Payment Registers

Steve Hubka, JPA Treasurer, noted that as progress is being made on the arena and related site, money is also being expended. The payment registers in addition to the Engineering Services costs are roughly \$3.4 million and are submitted for the Board's approval.

Clare asked if these expenditures are on budget and if the necessary signatures and approval process are in line from an audit perspective. Hubka affirmed that the expenditures are on budget. He also indicated that after the meeting he and the new Chair will sign checks, which is an indication that they have gone to a fair amount of inconvenience to make sure the process is properly followed.

Beutler asked for any comments from the public. Jane Kinsey came forward and asked if the payment to Marvin Investment Management Company is Dan Marvin's salary or in addition to his salary. Beutler explained that Marvin doesn't have a salary because he is a contract worker and is paid under the terms of his contract.

With no further public comment, Clare made a motion to approve the August payment registers. Beutler seconded the motion. Motion carried 2-0.

Item 7 – Review of the August 2011 Expenditure Reports

Steve Hubka observed that the Operating Expenditure Report is significant because it shows the expenditures for the first full fiscal year of operation for the JPA. There were two items that make it appear there was a budget overrun of \$140,000. The first item is an advance to the District Energy Corporation (DEC) for \$171,434 which will be reimbursed to the JPA. The other is an expenditure for the public officials liability insurance. As he mentioned at the last meeting, it was thought this insurance would be paid in the 11/12 fiscal year but due to timing had to be paid out of the 10/11 fiscal year. The total of those two items is \$198,195 and if not for them the budget would have been under expended by \$57,549. A significant amount of money was saved by implementing the occupation taxes in a more efficient way that originally planned.

Clare understood that the advancement to the DEC will be reimbursed but asked if Hubka has ensured that there is a commitment from the DEC to pay it back. Hubka stated that he has visited with Law and they will include the commitment in the Operating Agreement when it is finalized. Rod Confer confirmed that it will be included.

Beutler asked for any comments from the public. No one came forward.

Item 8 – Bill No. WH 11-71S Substitute Resolution to approve Substitute Amendment No. 2 to the Amended and Restated Construction Manager at Risk Contract with M.A. Mortenson Company amending the Property Insurance Provision in the General Conditions to clarify that the JPA is not procuring additional terrorism coverage for certified acts of terrorism and allow the JPA to procure terrorism coverage with a sub-limit of \$5 Million and flood coverage with a sub-limit of \$25 Million in lieu of the total value of the entire Project.

Paula Yancey informed the Board that this is the resolution that was deferred from the last meeting. This will match up the insurance provisions in the Mortenson contract with the actual insurance coverage that the JPA procured which includes \$25 million of flood insurance and does not include terrorism insurance. Mortenson has reviewed this with the City attorneys and is fine with this approach to insuring the project.

Clare asked if Yancey has checked to make sure there is no lapse in any coverage. Yancey answered that there will be no lapse as this is strictly cleaning up the Mortenson Contract language to match up to the actual coverage.

Beutler asked for any comments from the public. Hearing none, Clare made a motion to approve the substitute resolution. Beutler seconded the motion. Motion carried 2-0.

Item 9 – Bill No. WH 11-73 Resolution approving the Annual Financial Interlocal Agreement between the West Haymarket Joint Public Agency (“JPA”) and the City of Lincoln Lancaster County Railroad Transportation Safety District (“District”) providing for the District to aid the JPA in funding the cost of removal of existing railroad tracks, related restoration activities and related Project Improvements in the West Haymarket Redevelopment Area up to a total of \$300,000.

Dan Marvin came forward and requested a delay on this item. He would like to get more information and since it is not time sensitive, will bring it back in either two or four weeks. Beutler and Clare concurred.

Item 10 -- Bill No. WH 11-74 Resolution approving the grant of two utility easements to the Lincoln Electric System, Windstream Nebraska Inc., Time Warner Entertainment – Advance/Newhouse Partnership.

Yancey stated that this is a resolution approving utility easements for LES, Windstream and Time Warner Cable to get electric, cable and telephone to the site and across some JPA owned property. One easement is for Amtrak and the other is for the arena site where the switchgear will be located.

Beutler asked for any comments from the public. Hearing none, Clare made a motion to approve the resolution. Beutler seconded the motion. Motion carried 2-0.

Item 11 -- Bill No. WH 11-75 Resolution approving Amendment No. 3 to the Agreement for Environmental Remediation Consulting Services between Alfred Benesch & Company and the West Haymarket Joint Public Agency to include additional services set out in Task 7 and Task 8 for an additional total amount of \$87,150.00.

Miki Esposito explained that before the Board is a substitute amendment to the original Amendment No. 3. The original amendment asked for an additional \$87,150 however, the substitute amendment reduces that amount to \$0 as it will be budget neutral. The amendment is to authorize additional investigation work, lab testing and installation of monitoring wells required by NDEQ and EPA. Rather than adding new money to the amendment she is asking for the authority to move dollars around from within the existing agreement.

As the investigation was being conducted, NDEQ asked for additional investigation of the properties north of O Street. In total, three were done and it was found that the property wasn't as dirty as originally perceived. This meant that traditional remedial actions would not be required and instead institutional controls such as legal deed restrictions, environmental covenants, ordinances and engineered controls could be used. The site investigation for the area will increase the originally budgeted \$153,000 to \$208,340. There is \$69,100 for remedial action oversight activities that isn't needed so they proposed to take these dollars and devote \$55,000 to the VCP site investigation and \$10,000 to the alter site investigation required by the EPA. This will leave just over \$4,000 to deal with institutional controls, deed restrictions, environmental covenants, and those kinds of legal drafting requirements. Esposito is requesting authorization to reallocate funds already pledged in one category instead of adding money to the overall total.

Clare inquired if the funds being reallocated out of the remedial action oversight will be needed in this project. Miki felt confident that they would not have to expend any more money on remediation. A lot of the soils that were contaminated were taken care of during the initial site prep phase so what is left does not have as much contamination as was anticipated. There is also a method in place to handle it if there are surprises later. She added that there is a very healthy environmental contingency plan budget that will be tapped into when the tracks come out.

Clare asked if these numbers are just for the north of O Street cleanup. Miki indicated that the money for south of O street is not included in these figures with the exception of the Alter sliver.

Beutler asked for any comments from the public. Hearing none, Clare made a motion to approve Bill No. WH 11-75. Beutler seconded the motion. Clare then made a motion to approve the substitute amendment. Beutler seconded the motion. Motion carried 2-0. The main motion was then voted on and carried 2-0.

Item 12 -- Bill No. WH 11-76 Resolution approving Amendment No. 1 to the Consultant Agreement between P.C. Sports and the West Haymarket Joint Public Agency to amend the Scope of Services to provide professional services to add peer review of the DEC Haymarket Central Energy Plant Mechanical and Electrical Design for a fee of \$11,400 plus reimbursable expenses.

Dan Marvin stated that this will amend the contract with PC Sports allowing \$11,400 to do a peer review of the District Energy facility. The DEC facility will be constructed to provide the heating and cooling for the arena and private development south of the arena. This review will ensure that funds are expended in the most efficient manner possible.

Randy Swanson, PC Sports, advised that given the complex nature of the design they feel it is prudent to have experts take a look at the current design and make sure money is being spent wisely. This facility will serve the arena and future developments so it is important that it is done right.

Beutler asked for any comments from the public. Jane Kinsey asked who will be doing the peer review. Swanson indicated that they have hired HDR out of Omaha. HDR is one of the few that specialize in these types of facilities. Clare added that with the comments that have been made about the Antelope Valley project, he feels this is a good idea.

Hearing no other comments, Clare made a motion to approve the resolution. Beutler seconded the motion. Motion carried 2-0.

Item 13 -- Set Next Meeting Date

The next meeting will be held on Friday September 30, 2011 (Room 112, City Council Chambers)

Item 14 – Motion to Adjourn

Clare made a motion to adjourn the meeting. Beutler seconded the motion. Motion carried 2-0. Meeting adjourned at 4:04 P.M.

Prepared by: Melissa Ramos-Lammli, Public Works and Utilities